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By: **Delegates Morhaim, Busch, Barve, Jones, Hurson, Owings, Bromwell, Bronrott, Cardin, V. Clagett, Donoghue, Goldwater, Hammen, Hubbard, Kach, Lee, Moe, Murray, Nathan-Pulliam, Oaks, Rosenberg, Rudolph, Smigiel, Sophocleus, Weldon, and ~~Zirkin~~ Zirkin, Benson, Boteler, Boutin, Costa, Elliott, Mandel, McDonough, Pendergrass, and V. Turner**

Introduced and read first time: February 5, 2004  
Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 9, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Procurement - Reciprocal Preference for Resident Offerors**

3 FOR the purpose of authorizing a unit of State government to give certain preferences  
4 to competitive sealed proposals from certain offerors under certain  
5 circumstances; providing that, at the request of the unit, nonresident offerors  
6 must give certain information concerning the treatment of nonresident offerors  
7 in certain states; defining certain terms; and generally relating to the granting  
8 of reciprocal preferences for resident offerors in awarding procurement  
9 contracts.

10 BY repealing and reenacting, with amendments,  
11 Article - State Finance and Procurement  
12 Section 14-401  
13 Annotated Code of Maryland  
14 (2001 Replacement Volume and 2003 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - State Finance and Procurement**

18 14-401.

19 (a) (1) In this section the following words have the meanings indicated.

- 1 (2) "Preference" includes:
- 2 (i) a percentage preference;
- 3 (ii) an employee residency requirement; or
- 4 (iii) any other provision that favors a resident over a nonresident.

5 (3) "Resident bidder" means a bidder whose principal office is located in  
6 the State.

7 (4) "RESIDENT OFFEROR" MEANS AN OFFEROR WHOSE PRINCIPAL  
8 OFFICE IS LOCATED IN THE STATE.

9 (5) ~~"RESPONSIVE PROPOSAL" MEANS A PROPOSAL THAT CONFORMS IN~~  
10 ~~ALL MATERIAL RESPECTS TO THE REQUEST FOR PROPOSALS.~~

11 [(4)] ~~(6)~~ (5) "Services" means services, architectural services,  
12 construction related services, engineering services, or energy performance contract  
13 services, all as defined in § 11-101 of this article.

14 (b) When a unit uses competitive sealed bidding to award a procurement  
15 contract, the unit may give a preference to the resident bidder who submits the lowest  
16 responsive bid from a resident bidder if:

- 17 (1) the resident bidder is a responsible bidder;
- 18 (2) a responsible bidder whose principal office or operation is in another  
19 state submits the lowest responsive bid;
- 20 (3) the state in which the nonresident bidder's principal office is located  
21 or the state in which the nonresident bidder has its principal operation through which  
22 it would provide supplies or services gives a preference to its residents; and
- 23 (4) a preference does not conflict with a federal law or grant affecting the  
24 procurement contract.

25 (c) ~~WHEN A UNIT ISSUES A REQUEST FOR PROPOSALS TO AWARD A~~  
26 ~~PROCUREMENT CONTRACT, THE UNIT MAY GIVE A PREFERENCE TO THE RESIDENT~~  
27 ~~OFFEROR WHO SUBMITS THE LOWEST RESPONSIVE PROPOSAL FROM A RESIDENT~~  
28 ~~OFFEROR IF:~~

- 29 (1) ~~THE RESIDENT OFFEROR IS A RESPONSIBLE OFFEROR;~~
- 30 (2) ~~A RESPONSIBLE OFFEROR WHOSE PRINCIPAL OFFICE OR OPERATION~~  
31 ~~IS IN ANOTHER STATE SUBMITS THE LOWEST RESPONSIVE PROPOSAL;~~
- 32 (3) ~~THE STATE IN WHICH THE NONRESIDENT OFFEROR'S PRINCIPAL~~  
33 ~~OFFICE IS LOCATED OR THE STATE IN WHICH THE NONRESIDENT OFFEROR HAS ITS~~  
34 ~~PRINCIPAL OPERATION THROUGH WHICH IT WOULD PROVIDE SUPPLIES OR~~  
35 ~~SERVICES GIVES A PREFERENCE TO ITS RESIDENTS; AND~~

1           ~~(4)     A PREFERENCE DOES NOT CONFLICT WITH A FEDERAL LAW OR~~  
2 ~~GRANT AFFECTING THE PROCUREMENT CONTRACT WHEN A UNIT USES~~  
3 ~~COMPETITIVE SEALED PROPOSALS TO AWARD A PROCUREMENT CONTRACT, THE~~  
4 ~~UNIT MAY GIVE A PREFERENCE TO RESIDENT OFFERORS IF:~~

5           (1)     A RESPONSIBLE OFFEROR WHOSE PRINCIPAL OFFICE OR OPERATION  
6 IS IN ANOTHER STATE SUBMITS A PROPOSAL;

7           (2)     THE STATE IN WHICH THE NONRESIDENT OFFEROR'S PRINCIPAL  
8 OFFICE IS LOCATED OR THE STATE IN WHICH THE NONRESIDENT OFFEROR HAS ITS  
9 PRINCIPAL OPERATION THROUGH WHICH IT WOULD PROVIDE THE SUBJECT OF THE  
10 CONTRACT GIVES A PREFERENCE TO ITS RESIDENTS; AND

11          (3)     THE PREFERENCE DOES NOT CONFLICT WITH A FEDERAL LAW OR  
12 GRANT AFFECTING THE PROCUREMENT CONTRACT.

13     (D)     (1)     At the request of the unit, a nonresident bidder OR NONRESIDENT  
14 OFFEROR submitting a proposal for a State project shall provide a copy of the current  
15 statute, resolution, policy, procedure, or executive order that pertains to the  
16 treatment of nonresident bidders OR NONRESIDENT OFFERORS by:

17                   (i)     the state in which the nonresident bidder's OR NONRESIDENT  
18 OFFEROR'S principal office is located; and

19                   (ii)    the state in which the nonresident bidder OR NONRESIDENT  
20 OFFEROR has its principal operation through which it would provide supplies or  
21 services.

22          (2)     A unit may give a preference under this section that is identical to  
23 any of the following preferences, or any combination of them:

24                   (i)     the preference that the state in which the nonresident bidder's  
25 OR NONRESIDENT OFFEROR'S principal office is located gives to its residents; or

26                   (ii)    the preference that the state in which the nonresident bidder  
27 OR NONRESIDENT OFFEROR has its principal operation through which it would  
28 provide supplies or services.

29     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
30 effect October 1, 2004.

